

CITY OF TIGARD, OREGON

ORDINANCE NO. 02-11

AN ORDINANCE AMENDING SECTION 2.52 OF THE TIGARD MUNICIPAL CODE CHANGING SUB SECTION 2.52.030 AND SUB SECTION 2.52.040 ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY.

WHEREAS, Sub section 2.52 regulates the sale of abandoned, found, seized and stolen property, and

WHEREAS, current and past practice have been to dispose of such property at a public auction in conjunction with other law enforcement agencies, and

WHEREAS, the proposed amendment codifies the practice and is consistent with the accepted business practices of other counties and municipalities in the disposal of property,

WHEREAS, Sub section 2.52.050 should refer to current ORS 166.280.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

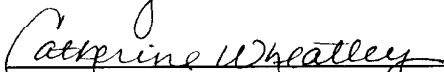
SECTION 1: Sub Section 2.52.030 is amended to allow for disposal of property at public auctions in conjunction with other law enforcement agencies.

SECTION 2: Sub Section 2.52.040 Certificate of Sale is eliminated and replaced with 2.52.040 Use of Property by City.

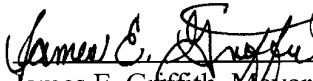
SECTION 2: Sub Section 2.52.050 Dangerous or Perishable Property state "weapons shall be destroyed in accordance with ORS 166.280."

SECTION : This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.


PASSED: By unanimous vote of all Council members present after being read by number and title only, this 12th day of February, 2002.


Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 12th day of February, 2002.


James E. Griffith, Mayor

Approved as to form:


City Attorney

February 12, 2002
Date

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Chapter 2.52 ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY.

Sections:

- 2.52.010 ~~Custody Of Property of~~
 property.
- 2.52.020 ~~Surrender To True Owner to~~
 true owner.
- 2.52.030 ~~Sale Of Property.~~
- ~~2.52.040 Certificate Of Sale.~~
- ~~2.52.045 Use Of Property By City of~~
 property.
- ~~2.52.040 Use of property by city.~~
- 2.52.050 ~~Dangerous Or Perishable~~
 Property or perishable
 property.
- 2.52.060 Scope.
- 2.52.010 ~~Custody Of Property of~~
 property.

Whenever any personal property other than a motor vehicle is taken into the custody of any department of the City by reason of its having been abandoned, found, seized, or for any other reason, the personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession of it. (Ord. 81-37 §1, 1981).

**2.52.020 ~~Surrender To True Owner to~~
 true owner.**

Except when the property in question has been confiscated or is being held as evidence, the owner or person lawfully entitled to possession may reclaim it upon application to the police department. The department shall require satisfactory proof of ownership or right to possession, and the department shall further require the payment of any charges and expenses incurred in the storage, preservation and custody of the property. (Ord. 81-37 §2, 1981).

2.52.030 ~~Sale Of Property of property.~~

(a) At any time after the expiration of ~~ninety days from the time the property comes into the possession of the police department, the Chief of Police~~ sixty days from the conclusion of all criminal actions related to the seizure of the property or after sixty days from the conclusion of the investigation if no criminal action is filed, the chief of police may sell the property at public auction. ~~The Chief of Police~~ chief of police shall not sell any such property held in evidence in any court proceeding until the need for its use in that proceeding has passed.

(b) ~~Notice~~ The auction may be conducted in conjunction with other law enforcement agencies. The auction company, as agent for the police department, shall give notice of the sale shall be given once by publication in a newspaper of general circulation in the City at least ten 31 days before the date of sale. Notice must also be posted in at least three public places within the City of Tigard. A copy of the notice shall also be sent to any person that the police department has reason to believe has an ownership or security interest in the property. The notice shall give the time and place of the sale and shall describe generally the property to be sold at the sale. The notice shall include a statement in substantially the following form:

NOTICE

The Tigard Police Department has in its physical possession the unclaimed personal property described below. If you have any ownership interest in any of that unclaimed property, you must file a claim within 30 days from the date of publication of this notice, or you will lose your interest in that property.

~~(b)(c)~~ All sales of property under this

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chapter shall be for cash and shall be made to the highest and best bidder; provided, however, that any person appearing at or prior to the sale and proving ownership or right of possession to the property in question shall be entitled to reclaim it upon the payment of the charges and expenses incurred by the City in the storage, preservation and custody of the property and a proportionate share of the costs of advertising for the sale.

(e)(d) If no bids are entered for the property or if the highest bid is less than the costs incurred by the City, the Chief of Police, the chief of police may enter a bid on behalf of the City in an amount equal to such costs. If bid in by the City, the property shall become the property of the City as compensation for the costs incurred.

(d) ~~The~~(e) The auction company shall provide the City with a detailed list of items sold and the monies received for each item. The proceeds of the sale shall be applied first to payment of the costs of the sale and any expenses incurred in the preservation, storage and custody of the property, and any balance shall be credited to the general fund of the City. The auction company shall be responsible for issuance of a receipt of sale to the purchaser of the property.

(e)(f) The sale of property pursuant to this chapter shall be without right of redemption. (Ord. 90-05 §1, 1990; Ord. 81-37 §3, 1981).

2.52.040 — Certificate Of Sale.

~~— At the time of the payment of the purchase price, the Chief of Police shall sign a certificate of sale in duplicate, the original to be delivered to the purchaser, and a copy to be kept on file in the office of the Finance Director, which certificate shall contain the date of sale, the consideration paid, a brief description of the property and a~~

~~stipulation that the City does not warrant the condition or title of the property other than the return of the purchase price in the event the title should prove for any reason to be invalid. The certificate of sale shall be in substantially the following form:~~

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 81-____ and pursuant to due notice of time and place of sale, I did on the day of ____ 19____ sell at public auction to for the sum of \$____, cash, the named person being the highest and best bidder, the following described personal property: (brief description of property).

In consideration of the payment of the sum identified above I have on this date delivered the described property to the named purchaser.

Dated this ____ day of ____, 19____.

CHIEF OF POLICE

NOTICE TO PURCHASER

(g) The City of Tigard assumes no responsibility as to the condition of the title to the property which is the subject of this transaction. In the event this sale should for any reason be invalid the liability of the City is limited to the return of the purchase price. (Ord. 81-37 §4, 1981).

2.52.045 — Use Of Property By City. 2.52.040 Use of property by city.

(a) In lieu of a sale of the property under Sections 2.52.030 and 2.52.040, at any time after the expiration of ninety days from the time the

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~~property comes into the possession of the police department, the City Manager~~ 2.52.030. ~~at any time~~ ^{time} ~~where~~ the City is authorized to sell the property, the city manager may, at the request of the ~~Chief of Police,~~ chief of police, convert the property to public use by entering it on the ~~City's~~ city's fixed asset inventory.

(b) Notice of the transfer of the property to the ~~City~~ city shall be given once by publication in a newspaper of general circulation in the ~~City~~ city at least ~~ten~~ 31 days before the property is converted to ~~City~~ city use. The notice shall describe the property and state that the described property shall be converted to ~~City~~ city use if the property is not reclaimed within ~~ten days,~~ 30 days. Any claim of ownership shall be subject to the provisions of Section 2.52.020.

(c) If the property is not reclaimed within ~~ten~~ thirty days after publication of the notice described in subsection (b) of this section, the property shall be entered on the ~~City's~~ city's fixed asset inventory and shall not be subject to the right of redemption. (Ord. 90-05 §2, 1990).

2.52.050 ~~Dangerous Or Perishable~~ ~~Property or perishable~~ ~~property.~~

The ~~Chief of Police~~ chief of police may order the destruction or other disposal of any property coming into his possession which is, in his judgment, dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280. (Ord. 81-37 §5, 1981).

2.52.060 Scope.

This chapter shall apply to all personal property, except motor vehicles, now or hereafter in the custody of the ~~City~~ city of Tigard. (Ord. 81-37 §6, 1981).■

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Chapter 2.52 ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY.

Sections:

- 2.52.010** **Custody of property.**
- 2.52.020** **Surrender to true owner.**
- 2.52.030** **Sale of property.**
- 2.52.040** **Certificate of sale.**
- 2.52.045** **Use of property by city.**
- 2.52.050** **Dangerous or perishable
property.**
- 2.52.060** **Scope.**

2.52.010 **Custody of property.**

Whenever any personal property other than a motor vehicle is taken into the custody of any department of the city by reason of its having been abandoned, found, seized, or for any other reason, the personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession of it. (Ord. 81-37 §1, 1981).

2.52.020 **Surrender to true owner.**

Except when the property in question has been confiscated or is being held as evidence, the owner or person lawfully entitled to possession may reclaim it upon application to the police department. The department shall require satisfactory proof of ownership or right to possession, and the department shall further require the payment of any charges and expenses incurred in the storage, preservation and custody of the property. (Ord. 81-37 §2, 1981).

2.52.030 **Sale of property.**

(a) At any time after the expiration of ninety days from the time the property comes into the possession of the police department, the chief of police may sell the property at public auction.

The chief of police shall not sell any such property held in evidence in any court proceeding until the need for its use in that proceeding has passed. Notice of the sale shall be given once by publication in a newspaper of general circulation in the city at least ten days before the date of sale. The notice shall give the time and place of the sale and shall describe generally the property to be sold at the sale.

(b) All sales of property under this chapter shall be for cash and shall be made to the highest and best bidder; provided, however, that any person appearing at or prior to the sale and proving ownership or right of possession to the property in question shall be entitled to reclaim it upon the payment of the charges and expenses incurred by the city in the storage, preservation and custody of the property and a proportionate share of the costs of advertising for the sale.

(c) If no bids are entered for the property or if the highest bid is less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs. If bid in by the city, the property shall become the property of the city as compensation for the costs incurred.

(d) The proceeds of the sale shall be applied first to payment of the costs of the sale and any expenses incurred in the preservation, storage and custody of the property, and any balance shall be credited to the general fund of the city.

(e) The sale of property pursuant to this chapter shall be without right of redemption. (Ord. 90-05 §1, 1990; Ord. 81-37 §3, 1981).

2.52.040 **Certificate of sale.**

At the time of the payment of the purchase price, the chief of police shall sign a certificate of sale in duplicate, the original to be delivered to the purchaser, and a copy to be kept on file in the

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office of the finance director, which certificate shall contain the date of sale, the consideration paid, a brief description of the property and a stipulation that the city does not warrant the condition or title of the property other than the return of the purchase price in the event the title should prove for any reason to be invalid. The certificate of sale shall be in substantially the following form:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 81-__ and pursuant to due notice of time and place of sale, I did on the day of __ 19__ sell at public auction to for the sum of \$____, cash, the named person being the highest and best bidder, the following described personal property: (brief description of property).

In consideration of the payment of the sum identified above I have on this date delivered the described property to the named purchaser.

Dated this ____ day of ____, 19__.

CHIEF OF POLICE

NOTICE TO PURCHASER

The City of Tigard assumes no responsibility as to the condition of the title to the property which is the subject of this transaction. In the event this sale should for any reason be invalid the liability of the City is limited to the return of the purchase price. (Ord. 81-37 §4, 1981).

2.52.045 Use of property by city.

(a) In lieu of a sale of the property under Sections 2.52.030 and 2.52.040, at any time after the expiration of ninety days from the time the

property comes into the possession of the police department, the city manager may, at the request of the chief of police, convert the property to public use by entering it on the city's fixed asset inventory.

(b) Notice of the transfer of the property to the city shall be given once by publication in a newspaper of general circulation in the city at least ten days before the property is converted to city use. The notice shall describe the property and state that the described property shall be converted to city use if the property is not reclaimed within ten days. Any claim of ownership shall be subject to the provisions of Section 2.52.020.

(c) If the property is not reclaimed within ten days after publication of the notice described in subsection (b) of this section, the property shall be entered on the city's fixed asset inventory and shall not be subject to the right of redemption. (Ord. 90-05 §2, 1990).

2.52.050 Dangerous or perishable property.

The chief of police may order the destruction or other disposal of any property coming into his possession which is, in his judgment, dangerous or perishable. (Ord. 81-37 §5, 1981).

2.52.060 Scope.

This chapter shall apply to all personal property, except motor vehicles, now or hereafter in the custody of the city of Tigard. (Ord. 81-37 §6, 1981).■